

BS00216

U.S. Application No. 09/749,825 Art Unit 2614
Response to May 6, 2005 Office Action

REMARKS

In response to the Office Action dated May 6, 2005, Assignee respectfully requests reconsideration based on the above claim amendments and the following remarks. The Assignee respectfully submits that the pending claims distinguish over the cited documents.

The United States Patent and Trademark Office (the "Office") objected to the drawings. Claims 1 and 16-20 were objected to for indefiniteness. Claims 1-51 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent 6,005,861 to Humpleman. The Assignee shows, however, that the amended claims are not obviated by the cited document. The Assignee thus respectfully submits that the pending claims distinguish over the cited document.

Objection to the Drawings

The United States Patent and Trademark Office (the "Office") objected to the drawings. The Office specifically objected to a missing reference numeral "137" discussed in the specification. Rather than submit corrected drawings, the Assignee amends the specification. The specification is amended to remove "137" from all paragraphs. Examiner Shannon is thanked for noting this mistake.

Objection to Claims

Claims 1 and 16-20 were objected to for indefiniteness. Claims 1 and 16-20 have been amended to cure deficiencies in dependency.

Rejection of Claims under 35 U.S.C. § 103 (a)

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Claims 1-51 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent 6,005,861 to Humpleman. If the Office wishes to establish a *prima facie* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P.").

Claims 1-51 are not obvious. Independent claims 1, 30, 36, and 48 each recite features not taught or suggested by *Humpleman*. Claim 1, for example, recites "*a shared communications link to a third switch port of the data switch, the shared communications link shared amongst the multiple tuners, wherein the multiple tuners each share the communications link to communicate information to the third switch port.*" Support for such features may be found at least at page 6, line 2; at page 13, lines 15-20; and at page 16, lines 11-18. Amended claim 1 is reproduced below.

1. (Currently Amended) A system for providing digital entertainment data, the system comprising:
 - a data switch, ~~the data switch~~ having a plurality of switch ports;
 - a mass storage device, ~~the mass storage device~~ coupled to a switch port of the plurality of switch ports of the data switch;
 - multiple tuners each selecting a respective content item from a plurality of content items ~~a tuner, the tuner to select an information channel of a plurality of information channels;~~
 - a demodulator, ~~the demodulator~~ coupled to both another switch port of the plurality of switch ports of the data switch, ~~the tuner;~~ and
 - a shared communications link to a third switch port of the data switch, the shared communications link shared amongst the multiple tuners, wherein the multiple tuners each share the communications link to communicate information to the third switch port.

Independent claims 30, 36, and 48 recite similar features.

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Humpleman fails to obviate such features. FIGS. 2 and 3 of *Humpleman* show each network interface unit having a dedicated connection to the switched hub. While *Humpleman* explains that the hub may be integrated into one or more network interface units (see *Humpleman* at column 4, lines 57-60), no where does *Humpleman* teach or suggest that such integrated devices would utilize a “a shared communications link to a third switch port of the data switch,” as independent claims 1, 30, 36, and 48 recite.

For at least these reasons, claims 1, 30, 36, and 48 are considered allowable. Claims 2-29, 31-35, 37-47, and 49-51 depend from claims 1, 30, 36, and 48, respectively, and are considered allowable for at least the same reasons.

Moreover, claims 4 and 5 recite features not taught or suggested by *Humpleman*. Claim 4 recites “an overlay processor coupled to a fourth port of the data switch via an internal bus structure, the overlay processor superimposing multiple information signals onto a first information signal.” Claim 5 recites “an item identifier corresponding to each stored content item, the item identifier having a value that indicates the content item has been played, another value indicating the content item has been purchased, and a third value indicating the content item has been licensed.” Because *Humpleman* fails to teach or suggest such claimed features, the patent to *Humpleman* cannot obviate claims 4 and 5.

Claims 6-8 also recite features not taught or suggested by *Humpleman*. Claim 6 recites “an item identifier corresponding to each stored content item, the item identifier storing a cost of playback for each content item and a second cost of purchase for each content item.” Claim 7 recites “download[ing] and stor[ing] on the mass storage device at a data rate that is less than a playback rate in bytes per second, and the system monitoring when a remaining amount of time required to complete the download is less than a playback time of the content item, such that the system may indicate that the content item is available for playback.” Claim 8 recites “a content item storage position

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identifier specifying a logical storage position in the mass storage device, and when new content items are downloaded and stored, a new content item storage position identifier is also downloaded for the content item already stored on the mass storage device." Because *Humpleman* fails to teach or suggest such claimed features, the patent to *Humpleman* cannot obviate claims 6-8.

Claims 39-43 recite the same, or similar, features as claims 4-8, so *Humpleman* likewise cannot obviate these claims.

Humpleman, then, fails to obviate claims 1-51. Because *Humpleman* fails to teach or suggest many features recited in claims 1-51, one of ordinary skill in the art would not think the pending claims obvious in view of *Humpleman*. The *prima facie* case for obviousness must fail, so Examiner Shannon is respectfully requested to remove the § 103 rejection.

If any questions arise, the Office is requested to contact the undersigned at (919) 387-6907 or scott@scottzimmerman.com.

Respectfully submitted,



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